IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 27TH NOVEMBER 2006 / 6TH AGRAHAYANA 1928

Crl.MC.No. 3896 of 2006()

CC.1209/2006 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA

.....

PETITIONER:

M.K.MAHESH KUMAR,
LEKSHMIPURAM, CHOVVA, P.O.KANNUR.

BY ADV. SMT.DAISY THAMPI
SRI.HARIDAS THAIKKANDY

RESPONDENTS:

---

1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. MATHEW YOHANNAN SASTHAMPADAVIL,
KALLINEL P.O., MAVELIKKARA, REP. BY
POWER OF ATTORNEY HOLDER K.P.SKARIA, JO VILLA,
ERUVA P.O., KAYAMKULAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3896 OF 2006

Dated this the 27th day of November, 2006.

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I Act. The petitioner had received summons to appear before the learned Magistrate. He did not appear before the learned Magistrate. He hence finds himself in the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. The petitioner has rushed to this Court and he submits that he is willing to surrender before the learned Magistrate. He apprehends, after he surrenders and applies for bail, the learned Magistrate would not grant bail for the petitioner and that he may be remanded. He further submits that his absence on the previous dates of posting was on account of reasons beyond his control. Appropriate directions under Section 482 Cr.P.C may be issued, he prays.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which the petitioner could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the

petitioner's application for bail on merits and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. In the result, this Crl.M.C is, dismissed. But with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, the learned Magistrate must proceed to consider such application for bail on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there are compelling and exceptional reasons.

Hand over a copy of this order to the learned counsel for the petitioner today itself.

R.BASANT
JUDGE

rtr/